

August 14, 2017

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

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FCC Mail Room

RE: CG Docket No. 02-278 and CG Docket No. 05-338

Dear Ms. Dortch:

As you know, the Telephone Consumer Protection Act (TCPA) was enacted in 1991, and in the twenty-six years since, fax technology has improved exponentially. Today's modern business office rarely contains fax machines tying up business phone lines, requiring endless ink refills and expensive fax paper rolls. Today more than 11 million customers send and receive faxes just as they do email on their computers or tablets – without the use of a fax machine, ink and facsimile paper rolls. Congress brought about great relief to businesses being bombarded by "junk fax" advertisements in 1991, however, it was never the intent of Congress to include devices other than facsimile machines.

Unfortunately, the uncertainty in the applicability of TCPA to faxes received on other devices has created a cottage industry for fax marketing companies and class action trial attorneys looking for hefty payouts. TCPA class action suits are on the rise with 14 filed in 2008 to more than 3,700 in 2015 filed in the credit industry alone (see <http://thehill.com/blogs/pundits-blog/technology/269656-does-tcpa-stand-for-total-cash-for-plaintiffs-attorneys>). The primary targets for these class action suits are businesses who often are engaging in fax marketing for the very first time, trusting marketing firms promising an effective outreach to customers.

Simply, online faxes result in little to no cost to the recipients. However, the fine for a TCPA violation outsizes the injury (\$500 per violation, \$1,500 if the violation is "willful"). Each year, businesses are facing multimillion dollar judgements or settlements, ruinous to a small business who entered into fax marketing agreements unknowingly and without malice.

For these reasons, we urge that you issue a declaratory ruling that the TCPA does not apply to fax advertisements received online or on devices other than a fax machine.

Respectfully submitted,

  
TONY LIGI  
EXECUTIVE DIRECTOR  
JEFFERSON BUSINESS COUNCIL  
504-289-3023

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